IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.328 OF 2006

M/s.Choudhury & Choudhury(India) Limited ...Petitioners

V/s.

Prasar Bharati ..Respondent

Shri.Prem Lal i/b Sreeji and Lal for the petitioners.
Shri.S.I. Shah with Shri.J.N. Pardhi for the respondent.

CORAM : D.K. DESHMUKH, J.
DATED : 29/08/2006

P.C.:-

1. Facts which are relevant for deciding this petition are as under:-

That the Arbitration Petition No.478/04 was filed by the respondent Prasar Bharti, challenging the award made by the learned Sole Arbitrator dated 15/10/2004. That petition was heard by this court and order was made on 1st March, 2006. That order was made under the provisions of sub section 4 of section 34 of Arbitration Act. By that order, proceedings of Arbitration Petition No.478/04 were adjourned in order to enable the learned Arbitrator to resume proceedings for deciding certain objections which though raised but were not decided by the learned Sole Arbitrator in the award dated 15/10/2004. Thereafter, learned Sole Arbitrator has passed award dated 25th April,

2006. By that order learned Sole Arbitrator has upheld some objections raised by the Prasar Bharti and has reduced the amount for which award was made against the Prasar Bharti.

2. It is a common ground before me that the present petitioner, who was claimant before the learned Sole Arbitrator, was not heard by the the learned Sole Arbitrator before making order dated 25th April, 2006. Present petition has been filed by original claimant challenging award dated 25th April, 2006. It is clear that by order dated 25th April, 2006 made by Sole Arbitrator, the amount awarded in favour of the petitioner is reduced. Therefore, it goes without saying that before making such order, learned Sole Arbitrator should have granted the present petitioner/claimant an opportunity of being heard. By this application made on behalf of the petitioner it is claimed that the award should be set aside by the court as the award has been made by the learned Arbitrator in breach of principles of natural justice. Petition, therefore succeeds and is allowed. Award dated 25th April, 2006, made by the learned Arbitrator at Ex.H is set aside.

(D.K. DESHMUKH, J.)